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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,871	07/31/2003	Sharon Mi Lyn Tan	03-044	1798
27774 7590 06/26/2009 MAYER & WILLIAMS PC 251 NORTH AVENUE WEST 2ND FLOOR WESTFIELD, NJ 07090				
EXAMINER				
AZPURU, CARLOS A				
ART UNIT		PAPER NUMBER		
1615				
MAIL DATE		DELIVERY MODE		
06/26/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/631,871

Applicant(s)

TAN, SHARON MI LYN

Examiner

Carlos A. Azpuru

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Receipt is acknowledged of the amendment filed 04/09/2009.

The rejection under 35 USC 103(a) over Unemura et al in view of Trogolo et al and McGlothlin is maintained in this action.

Response to Arguments

Applicant's arguments filed 04/09/2009 have been fully considered but they are not persuasive.

Applicant argues that Unemura et al disclose that a latex dispersed in water is highly unstable. However, this is the problem being solved by the patent. The polymers of the patent are disclosed ay col. 3, lines 50-67; and col. 4, lines 1-10. Note that Unemura et al disclose many of the polymers instantly defined at [0024] and [0027] as the release-modulating latex polymers. Therefore, the term latex as used by applicants is far broader than the literal definition and encompasses the polymers of the reference. This includes isoprene homopolymers (used by MCGlothlin et al in dipping processes), and clearly sets out an equivalence between these polymers if not a clear definition of what applicant considers as their latex release-modulating polymer.. Applicants' arguments concerning Unemura et al. are therefore not specific to the particular polymers of the instant invention which are defined as latex and/or rate-modulating.

With regard to Trogolo et al, applicant notes that the reference teaches away from the use of latex polymers at [0081]. Again, the definition used by applicants

however appears to encompass a far broader range of polymers already shown to be taught by Unemura et al. Similarly, Trogo et al discloses many of the polymers defined by applicants' own specification at [0051] – [0055]. Therefore, applicants' arguments are not on point.

The primary reference teaches the use of the silver compound in the polymers of the invention as a solution. The secondary reference shows that these same polymers can then be used to coat bioactives in microcapsules. Microcapsules by definition have a core surrounded by an encapsulating layer surrounding said core. Therefore, the references neither singly, nor in combination, teach away from the instantly claimed invention.

The last reference is merely used to show that coating of medical devices through dip molding is well established in the art using one of the polymers defined as latex. There is no need for McGlothlin to include microcapsules or antimicrobials since this portion of the invention is clearly taught by the primary and secondary references. Note that Unemura specifically recites polyisoprene homopolymers (see above). Those of ordinary skill know several processes of coating which include but are not limited to, dipping, spraying, solvent evaporation, or in situ polymerization. As such, the reference merely establishes the process as well known.

As such, the rejection is maintained over the claims of record as well as new claim 23.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos A. Azpuru whose telephone number is (571) 272-0588. The examiner can normally be reached on Tu-Fri, 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos A. Azpuru/
Primary Examiner, Art Unit 1615

Carlos A. Azpuru
Primary Examiner
Art Unit 1615

caz